

ESTTA Tracking number: **ESTTA459871**Filing date: **03/05/2012**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Juice Stop, Inc.		
Entity	Corporation	Citizenship	Kansas
Address	2847 S. Kansas Avenue Topeka, KS 66611 UNITED STATES		

Attorney information	Adam C. Rehm SNR DENTON US LLP P.O. BOX 061080 Chicago, MO 60606-1080 UNITED STATES adam.rehm@snrdenton.com, anita.hansen@snrdenton.com, ttab@snrdenton.com m Phone: 816-460-2542
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Registrations Subject to Cancellation

Registration No	3452363	Registration date	06/24/2008
Registrant	JS HOLDINGS, LLC 6116 S. LYNCREST AVENUE SUITE 105 SIOUX FALLS, SD 57108 UNITED STATES		

Goods/Services Subject to Cancellation

Class 043. First Use: 1999/02/28 First Use In Commerce: 1999/02/28
All goods and services in the class are cancelled, namely: Restaurant services

Grounds for Cancellation

<i>Torres v. Cantine Torresella S.r.l. Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)		
Abandonment	Trademark Act section 14		
Priority and likelihood of confusion	Trademark Act section 2(d)		
Registration No	3638397	Registration date	06/16/2009
Registrant	JS Holdings, LLC Suite 105 6116 S. Lyncrest Avenue Sioux Falls, SD 57108 UNITED STATES		

Goods/Services Subject to Cancellation

Class 043. First Use: 2004/03/01 First Use In Commerce: 2004/03/01
All goods and services in the class are cancelled, namely: Restaurant and bar services; Restaurant and cafe services; Restaurant services, including sit-down service of food and take-out restaurant services

Grounds for Cancellation

<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Abandonment	Trademark Act section 14
Priority and likelihood of confusion	Trademark Act section 2(d)

Mark Cited by Petitioner as Basis for Cancellation

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	JUICE STOP		
Goods/Services	restaurant products and/or services		

Attachments	JUICE_STOP-cancellation.pdf (7 pages)(108265 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/adam c rehm/
Name	Adam C. Rehm
Date	03/05/2012

2. JS Holdings, LLC is a South Dakota limited liability company having its principal place of business at Suite 105, 6116 S. Lyncrest Avenue, Sioux Falls, South Dakota 57108 (“Registrant”).

3. Petitioner is a business providing restaurant products and/or services at various locations in and throughout Kansas, doing business in that state under the mark JUICE STOP, and serving customers in that state under the mark JUICE STOP prior to the date when Registrant commenced use of its marks.

4. Petitioner has spent considerable time, capital, and manpower to develop goodwill in the JUICE STOP mark throughout various regions within the United States.

5. Petitioner’s customers have come to associate the JUICE STOP mark with high quality restaurant services and with Petitioner’s high quality products, and as a result Petitioner enjoys a valuable reputation within both the general community as well as in the restaurant services and products industry.

6. Registrant owns (1) U.S. Registration No. 3452363 for the mark JUICE STOP, issued June 24, 2008 for “Restaurant services” with an alleged date of first use in commerce of February 28, 1999; and (2) U.S. Registration No. 3638397 for the mark JUICE STOP (stylized with design) issued June 16, 2009 for “Restaurant and bar services; Restaurant and cafe services; Restaurant services, including sit-down services of food and take-out services” with an alleged date of first use in commerce of March 1, 2004 (separately or collectively the “Registrations”).

7. In view of Petitioner’s business and its longstanding use of the mark JUICE STOP, Petitioner believes that continued registration of the Registrations will impair Petitioner’s rights in and to Petitioner’s JUICE STOP mark and, as a result, Petitioner will be damaged.

COUNT I:

FRAUD ON THE USPTO

8. Petitioner repeats and realleges the allegations contained in Paragraphs 1 through 7 as though set forth fully herein

9. Upon information and belief, Registrant fraudulently procured, maintained and/or renewed the Registrations.

10. Upon information and belief, Registrant had knowledge of multiple others using the Registrations in commerce in an identical form to the Registrations, and knowingly filed a false Declaration with intent to deceive or otherwise mislead the USPTO in this regard.

11. Upon information and belief, Registrant had knowledge that it was not the owner of the Registrations, and knowingly filed a false Declaration with intent to deceive or otherwise mislead the USPTO in this regard.

12. Upon information and belief, Registrant had knowledge that it was not entitled to use the Registrations in commerce, and knowingly filed a false Declaration with intent to deceive or otherwise mislead the USPTO in this regard.

13. Upon information and belief, Registrant was not using the Registrations in commerce in the ordinary course of trade, and knowingly filed a false Allegation of Use with intent to deceive or otherwise mislead the USPTO in this regard.

Registrant's fraudulent procurement, maintenance and/or renewal of U.S. Registration Nos. 3638397 and 3638397 is grounds for cancellation under § 14 of the Lanham Act, 15 U.S.C.

§ 1064 (3).

COUNT II:

LIKELIHOOD OF CONFUSION

14. Petitioner repeats and realleges the allegations contained in Paragraphs 1 through 13 as though set forth fully herein.

15. The Registrations so resembles Petitioner's JUICE STOP trade or business name and service marks as to be likely to create confusion, mistake, or deception under § 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

16. The Registrations are identical in sound and appearance to Petitioner's JUICE STOP business or trade names and service marks. Consumers encountering the Registrations could reasonably believe that services sold under or in connection thereto are offered or otherwise sponsored by Petitioner.

17. Petitioner's use of the JUICE STOP business or trade names and service marks was prior to Respondent's first use with respect to the Registrations.

18. Petitioner has established considerable goodwill in connection with its JUICE STOP business or trade names and service marks, the said term having been used in connection with Petitioner's restaurant services for a sufficient amount of time to establish significant goodwill, and having established such goodwill, Petitioner is entitled to protection against registration of confusingly similar marks.

COUNT III:

ABANDONMENT THROUGH NON-USE

19. Petitioner repeats and realleges the allegations contained in Paragraphs 1 through 18 as though set forth fully herein.

20. Upon information and belief, Registrant has abandoned the Registrations.

21. Upon information and belief, Registrant abandoned all rights it may have had to the Registrations by not using such in commerce, in the ordinary course of trade, in connection with the goods listed in the Registrations.

22. Registrant's nonuse of the Registrations for three (3) consecutive years is *prima facie* evidence of Registrant's intent not to resume use of the Registrations and of abandonment of the Registrations.

WHEREFORE, Petitioner alleges and believes that it will be damaged by the continued registration of the Registrations and prays that this Consolidated Petition for Cancellation be granted and that U.S. Registration Nos. 3638397 and 3638397 be cancelled under § 14 of the Lanham Act, 15 U.S.C. § 1064 (3).

Juice Stop, Inc. hereby appoints Adam C. Rehm and SNR Denton US LLP of P. O. Box 061080, Chicago, IL USA 60606-1080, as its representative upon whom notices and process in proceedings affecting this proceeding may be served.

Respectfully submitted,

Juice Stop, Inc.

Dated: March 5, 2012

By: /Adam C. Rehm/
Adam C. Rehm
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Chicago, IL USA 60606-1080
Tel. No. 816-460-2542
Fax. No. 816-531-7545
Attorneys for Juice Stop, Inc.

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing CONSOLIDATED PETITION FOR CANCELLATION to be served upon:

JS HOLDINGS, LLC
6116 S. Lyncrest Avenue, Suite 105
Sioux Falls, South Dakota 57108

and

Nicholas T. Dafney
Abrahams Kaslow & Cassman LLP
8712 West Dodge Road, Suite 300
Omaha, Nebraska 68114-3450

by placing same in an envelope, properly sealed and addressed, with postage prepaid and depositing same with the United States Postal Service on this 5th day of March 2012.

/Adam C. Rehm/
Adam C. Rehm